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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JOHN MICHAEL BROOKS,

7 Petitioner,

8 v.

9 JACK WARNER,

10 Respondent.

Case No. 3:22-cv-05486-JLR-TLF

ORDER DIRECTING JOINT
STATUS REPORT REGARDING
STATE COURT PROCEEDINGS
AND STAY

11 This is a 28 U.S.C. § 2254 habeas corpus action. By order dated December 5,
12 2022, the Court granted petitioner's unopposed motion to stay and abey these
13 proceedings pending completion of petitioner's ongoing proceedings in state court. Dkt.
14 17. The Court further directed respondent to file status reports every ninety (90) days.
15 *Id.* The Court directed petitioner to inform the Court and to file a motion to lift the stay
16 within 30 days of the resolution of state court proceedings. *Id.*

17 On August 4, 2023, respondent filed a status report indicating that the state court
18 proceedings have "all but concluded." Dkt. 25. Respondent states that according to the
19 clerk's minutes, on May 22, 2023, the Cowlitz County Superior Court heard and denied
20 petitioner's motion for a new trial. *Id.* There is no indication whether any appeal of that
21 decision has been filed in the state appellate courts.

22 Respondent indicates that he "is reasonably informed and believes that as of the
23 filing of this status report, no subsequent filings in the [state] court since May 22, 2023,
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1 has occurred that would indicate formal or official closure of Brook's proceedings." *Id.*
2 Respondent further states that "[s]hould this Court decide that a stay should be
3 continued, Respondent will file a new status report in 90 days." *Id.*

4 The Court notes respondent's filing lacks clarity about whether the relevant state
5 court proceedings are finished, and whether this Court should lift the stay in the federal
6 habeas corpus action. The Court notes that petitioner has not moved to lift the stay in
7 this action although he was directed to do so within thirty (30) days of the completion of
8 the state court proceedings.

9 Due to the lack of clarity regarding whether petitioner's state court proceedings
10 are, in fact, fully resolved, and whether it is appropriate at this point to lift the stay, the
11 Court hereby ORDERS:

- 12 (1) On or before **October 5, 2023**, petitioner and respondent are directed to meet
13 and confer, and file a joint status report, with supporting documents from the
14 state court record, to show whether the relevant state court proceedings have
15 fully concluded and whether it is appropriate for this Court to lift the stay. If
16 possible, the parties should file this as a stipulation. If the parties disagree
17 regarding the status of the state court proceedings, they shall provide the Court
18 with the legal and factual basis for the disagreement in their joint status report.

19 Dated this 6th day of September, 2023.

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21 Theresa L. Fricke
22 United States Magistrate Judge
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